IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.16889 of 2000

Dated: 13-06-2007

Between:

1. Galla Uma Maheswara Rao (Died) per L.Rs. and others.

... Petitioners

and

1. The Collector,
   Krishna District,
   Machilipatnam and another.

... Respondents

ORDER:

This writ petition is filed seeking a *mandamus* to direct respondents to refer the Award No.1 of 1990 to the Civil Court under Section 18(2) of the Land Acquisition Act, 1884 (for short, 'the Act'), insofar as it relates to the lands belong to petitioners in an extent of Acs.4-38 cents and Ac.0-26 cents covered by Sy.Nos.134/3, 134/4, 136/3, 136/5, 136/6 and 136/7 situated at Tarakaturu village, Guduru Mandal, Krishna District,

for determination of compensation.

2. Brief facts are that petitioners were all small farmers having small extents of land, and an extent of Acs.208-51 cents was acquired by the Government for the purpose of construction of Storage Tank in Tarakaturu village of Guduru Mandal. In that context, a notification under Section 4(1) of the Act was published and thereafter after following the procedure as provided for under the Act, two awards were passed on 14-08-1999 and 23-06-1990. The lands insofar as petitioners are concerned, are covered by the award dated 23-06-1990. Thereafter a copy of the award was served on petitioners on 12-07-1990 and petitioners sought for a reference of the proceedings to a competent Civil Court, as provided for under Section 18 of the Act and the said application is dated 08-08-1990. But no orders are passed and the same is not referred to the Civil Court.

3. A detailed counter affidavit is filed on behalf of respondents, wherein the dates mentioned by petitioners are admitted, but according to respondents petitioners had never protested with regard to the amount of compensation fixed by the Land Acquisition Officer and hence, the said application given under Section 18 of the Act was rejected on 06-03-1992.

4. Heard learned counsel for the parties.

5. I am unable to appreciate the contention of learned Government Pleader appearing for respondents that petitioners had received the compensation without protest and hence there is no necessity for the authorities to refer the matter to a Civil Court under Section 18 of the Act. May be, they might not have specifically stated that they are protesting, but the very giving of an application seeking reference under Section 18 of the Act, it is clear that they are protesting about the

amount of compensation so awarded by the Land Acquisition Officer. In fact, the Supreme Court in **AJIT SINGH v. STATE OF PUNJAB**[1] held that receipt of compensation is not a ground to deny the enhanced compensation and even if the amount of compensation is accepted, when a reference is made to a Civil Court, it must be construed that it is an implied protest by the claimant for the compensation so awarded by the Land Acquisition Officer. After all, we must understand the intention of the party but not the language so used. The specific word protest, as already observed, giving of an application seeking reference under Section 18 of the Act itself is sufficient to make a reference.

6. Accordingly, the writ petition is allowed and second respondent – Land Acquisition Officer is hereby directed to refer the matter to a competent Civil Court under Section 18 of the Act for proper adjudication. No costs.

As it is an old matter, the reference shall be made within eight weeks from the date of receipt of a copy of this order and the Civil Court, which entertains the reference, may decide the reference within three months thereafter.

JUSTICE GOPALAKRISHNA TAMADA

Dt.13-06-2007
GLV

[1] 1994(4) SCC 67